

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

In the Matter of

JEFFREY AUERHAHN

Action No. 09-10206-RWZ-WGY-GAO

**ASSENTED-TO MOTION FOR LEAVE TO FILE THE OPR REPORT UNDER SEAL**

Pursuant to Local Rules 7.1 and 7.2, Bar Counsel and respondent Jeffrey Auerhahn (“Auerhahn”) (collectively, the “Parties”) hereby respectfully request that the Court enter an order permitting the Parties to file immediately under seal a partially redacted copy of the Office of Professional Responsibility report concerning Auerhahn (herein, “the partially redacted Report”). Three copies of that partially redacted Report are being simultaneously filed by hand and under seal with the Clerk. The Parties are discussing among themselves and with the Department of Justice (“DOJ”) the issue of whether a fully redacted report can be agreed upon which complies with all privacy issues, sealing and confidentiality orders, or other applicable protections, and filed publicly.

In support of his Motion, Auerhahn states the following:

1. On March 17, 2010, the Court issued an order that the parties “provide the court with three copies of the report issued by the Office of Professional Responsibility for the Department of Justice concerning respondent.” See Dckt. No. 46.

2. The U.S. Attorney's Office for the District of Massachusetts has reviewed the OPR report to determine whether information is subject to redaction. The report, among other things, discusses sensitive matters concerning the status of certain witness and the procedures of the Department of Justice concerning the care and handling of such witnesses, and contains references to information subject to sealing orders. Further, certain of the file in Barone v.

United States, 98-11104-MLW and Ferrara v. United States, 00-11693-MLW has been, and remains, under seal pursuant to numerous sealing orders.

3. On May 19, 2010, DOJ informed the Parties that DOJ does not object to the Parties filing under seal a copy of the partially redacted Report, in which a redaction requested by DOJ is made to page 111. The partially redacted Report is being filed under seal with the Clerk separately.

4. On May 19, 2010, DOJ also stated that DOJ would not object to the public filing of the OPR report with other redactions DOJ has requested. The Parties are discussing among themselves and with the Department of Justice (“DOJ”) the issue of whether a fully redacted report can be agreed upon which complies with all privacy issues, sealing and confidentiality orders, or other applicable protections, and filed publicly.

5. To allow the filing of the partially redacted Report under seal in this case would expedite this Court’s consideration of this case, and obviate the risk of violating any applicable restrictions to public release of a fully-redacted report. It is in the interests of justice to permit the parties and DOJ to review carefully any such version to determine whether it can be filed publicly.

6. The partially redacted Report should be maintained under seal until the conclusion of the matter, or until further order of the Court.

7. This motion is made in good faith and is not interposed for delay or any other improper purpose. Allowing the partially redacted Report to be filed under seal will cause no harm to the interests of Bar Counsel or the Court.

WHEREFORE, Bar Counsel and Jeffrey Auerhahn respectfully request that the Court grant this motion and seal and impound the partially redacted Report.

Respectfully submitted,

JEFFREY AUERHAHN

By his attorneys,

/s/ Michael D. Ricciuti

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Dated: May 20, 2009

**LOCAL RULE 7.1(A)(2) CERTIFICATION**

Pursuant to Local Rule 7.1(A)(2), counsel for Auerhahn conferred with Bar Counsel regarding the issues presented by this motion and the motion to impound, and Bar Counsel indicated that she assents to so much of the motion that the partially redacted Report be submitted under seal.

/s/ Michael D. Ricciuti

Dated: May 20, 2009

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Michael D. Ricciuti

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on this 20th day of May 2010:

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/s/ Michael D. Ricciuti

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